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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,749	12/14/2000	Gary Strawn	CISCP186	2098

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EXAMINER

PHILLIPS, HASSAN A

ART UNIT PAPER NUMBER

2151

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

3

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/738,749	STRAWN, GARY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hassan Phillips	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to amendments received on April 12, 2004, and the supplement to the amendments received on April 13, 2004.

### ***Drawings***

1. After consideration of the response to the objection of the drawings, the examiner sustains the objection. In the background of the invention, on page 3, lines 8-9, the applicant states, "A block diagram of a **conventional** load-balanced server system is illustrated in FIGURE 1 of the drawings." This implies that only that which is old is illustrated in Fig. 1. See MPEP § 608.02(g). Therefore, the objection to the drawings, as indicated in the first office action, stands.

### ***Claim Objections***

1. After consideration of the amendments to claims 9, 25, and 35, the examiner has withdrawn the objections to the claims.

### ***Response to Arguments***

1. Applicant's arguments filed April 12, 2004 have been fully considered but they are not persuasive.

Applicant argued that:

- a) Welter does not teach determining the health status of a **selected** network device;
- b) Welter does not provide a method for testing (or even for identifying) a specific network device that may be providing content to the web site being tested.

Examiner respectfully submits that Applicant has misinterpreted the prior art of record.

Regarding item b), combined with the applicants admitted prior art (AAPA), as indicated in the first office action, Welter does provide a method for testing a specific network device that may be providing content to the web site being tested. In col. 2, lines 61-65, Welter specifically teaches the system for testing a web site including a **web server** connected to a TCP/IP network and hosting the web site. Further, in col. 2, lines 22-32, Welter teaches initiating an HTTP communication with the site. It is implicit that in order to initiate communication with a web site, some form of identification must be used to access the site. It would have been obvious to a person of ordinary skill in the art at the time of the present invention to use this same identification to identify a specific network device.

Applicant further suggests that content may be provided to Welter's "tester" by means of a virtual server that receives content from a number of servers in a server farm, and that there may be a gateway device associated with the virtual server applying network address translation. It is respectfully submitted that nowhere in the teachings of Welter, does Welter suggest a gateway device being associated with a

virtual server to apply network address translation. In fact, Welter only teaches a system for testing a web site including a testing computer, and **a web server** connected to a TCP/IP network and hosting the web site. See Fig. 1. Furthermore, if the web server connected to the TCP/IP network were a virtual server, each individual virtual server within the web server would have its own domain name and IP address, and would thus provide a means to be identified and tested separately.

Regarding item a), the Examiner admits that Welter does not teach determining the health status of a selected network device, however, Welter provides a means for **selecting** a network device as described above, and furthermore, the combined teachings of Welter and the AAPA provide a means for determining the health status of a selected network device as mentioned in the first office action. Being that Welter teaches the detection of an error when a web page fails to download from a web server, col. 1, lines 43-47, it would have been obvious at the time of the present invention to modify the teachings of Welter with the AAPA to determine the health status of a selected network device, in case it was the device that caused for the error of the download.

Accordingly the references supplied by the examiner in the first office action cover the claimed limitations. The rejection is thus sustained. Applicant is requested to review the prior art of record for further consideration.

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (703) 305-8760. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2151

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/  
5/18/04



**FRANTZ B. JEAN**  
**PRIMARY EXAMINER**